

1 powerful form.

2 Q. So am I correct you may have seen him
3 before; you may not have seen him before? Is that
4 an accurate statement?

5 A. It is possible. One of the reasons I
6 feel that I may have known him is I ran into him in
7 the restroom, ran into him twice downstairs, ran
8 into him at the coffee shop, ran into him at the
9 elevator first floor, and ran into him at this
10 room.

11 That's five times in a day. That may
12 have emphasized the fact that I maybe I ran into
13 this guy before, running into him five or six times
14 within the course of five minutes here in this
15 building today.

16 Q. Of course. I understand that, and I
17 appreciate that. I was talking about prior to this
18 morning, and if my question wasn't clear I would
19 like to ask it to you again.

20 A. I'm saying sitting here looking at him
21 today, now at this hour, he vaguely looks like I
22 may have seen him, but that may have been because
23 of the sequence of seeing him in this building
24 five, six times, today.

25 Q. Do you think you might have seen him at

1 the motel where you work?

2 A. I don't know.

3 Q. So you may have, and you may not have;
4 is that accurate?

5 A. That's correct. That's accurate.

6 Q. Now, do you know a person named George
7 Gardner?

8 A. No. By association, no.

9 Q. Have you ever talked to anyone who
10 identified themselves as George Gardner?

11 A. It's possible, but I am not aware of
12 it.

13 Q. Do you have any recollection of ever
14 talking to someone who identified himself as George
15 Gardner?

16 A. I don't have a recollection, no.

17 Q. Has anyone in the world told you that
18 George Gardner's deposition and David Gardner's
19 deposition were taken earlier this week, just like
20 your deposition is being taken this moment?

21 A. No.

22 Q. You have no knowledge of that?

23 A. No. I thought it was --

24 Q. That's the first time you ever heard of
25 that?

1 A. No, I thought we were being deposed
2 today, both of us.

3 Q. You thought who was being deposed
4 today?

5 A. Whatever parties were being deposed, I
6 thought we would all be deposed today.

7 Q. So you have no knowledge that George
8 and David Gardner were deposed earlier this week?

9 A. No.

10 Q. That's the first you heard of it?

11 A. That's correct.

12 Q. Now, I want you to have before you -- I
13 have a few questions about this document which is
14 March deposition exhibit two, and it's entitled
15 Affidavit of Barry L. March.

16 Now, look at page four -- Excuse me,
17 five of the document, will you, please? That's
18 your signature, isn't it?

19 A. Yes, it is.

20 Q. And that was signed on the 7th day of
21 May, is that correct?

22 A. Yes, it is.

23 Q. Did you sign that document in front of
24 the woman -- in front of Ellen Buchanio, who is a
25 notary public? Did you sign it in her presence?

1 A. Yes.

2 Q. Do you know Ellen Buchanio?

3 A. No.

4 Q. Were you sent to some place where she
5 was and signed it in front of her?

6 A. Yes.

7 Q. Where did you sign it?

8 A. The attorney's office.

9 Q. Whose attorney?

10 A. Allen Krause.

11 Q. I see. Who was present when you signed
12 it?

13 A. Allen Krause and the notary.

14 Q. Now, I'd like you to tell me in your
15 own words how it came about that you signed this
16 affidavit.

17 A. I got a telephone call from Chris Holt.

18 Q. When?

19 A. Prior to that date.

20 Q. Do you recall approximately how long
21 before?

22 A. I would say one to two months prior.

23 Q. Go ahead.

24 A. And he requested --

25 Q. First of all, did he identify himself

1 to you?

2 A. He identified himself, yes.

3 Q. How did he identify himself?

4 A. He identified himself as Christopher
5 Holt, an attorney representing the company he is
6 representing with an interest in a particular TV
7 tower -- TV tower or slash antenna that was
8 proposed for the Lebanon area and mentioned that
9 our hotel possibly signed an agreement or entered
10 into an agreement with Raystay and wanted to know
11 what knowledge I had of this.

12 Q. Did he tell you anything other than
13 what you have just said, or is that all that you
14 can recall?

15 A. We had a conversation, a dialogue, and
16 I told him I would have to refer this to my
17 attorney.

18 The dialogue was vague. We did not get
19 into details.

20 I referred Mr. Holt to Allen Krause.
21 The two of them had a conversation, and I at that
22 time did not want to get involved at all in any
23 way, shape, or form since this was, in my opinion,
24 a very, very vague agreement, if any, on my behalf
25 to venture into any contract now or in the future.

1 The events of this in the past are very
2 clear in my mind, that I did, in fact, talk to
3 someone either in person, as I stated, or on the
4 phone. I am not sure which.

5 But I remembered that the conversation
6 was extremely vague about using the site of the
7 Lebanon Valley Quality Inn, due to the height of
8 the roof, and the valley, to put up a transmission
9 device, whether it be a whip antenna, a satellite,
10 etc.

11 Because of the vagueness, I thought
12 that I should not be brought into this whatsoever,
13 because I have no concrete information to
14 contribute. Which I shared with my attorney.

15 My attorney advised me, after we had a
16 lengthy conversation, that rather than draw this
17 out, it's best to, at this point in time, just go
18 through the process, give my recall to the best of
19 my ability.

20 And that's how and why I dealt with Mr.
21 Holt.

22 Q. Now, how many conversations did you
23 have with Mr. Holt concerning the preparation of
24 your affidavit?

25 A. I would say about three.

1 Q. Three. And will you walk me through,
2 to the best of your recollection, the substance of
3 those conversations?

4 A. Conversation number one was the inquiry
5 about my knowledge whereby, as I told you, I
6 referred him to counsel.

7 Q. He then called counsel?

8 A. He called my attorney, yes.

9 Q. Were you on the phone call when he
10 spoke to your attorney?

11 A. No, sir.

12 Q. What happened next?

13 A. Call number two was to, basically, get
14 my side of what knowledge I had concerning Raystay,
15 which I recited to him over the telephone.

16 Q. Did he ask you questions and you
17 answered him?

18 A. For the most part, yes. Yes.

19 Q. And did he tell you he was recording
20 your conversation?

21 A. Yes.

22 Q. Okay.

23 A. And at that time he said that he will
24 type something up for me and send it back for my
25 consideration and approval, and I can at that point

1 show it to Attorney Krause or have Attorney Krause
2 call him back with any questions.

3 And then we did, on that call, agree
4 that that's the way -- I agreed that that's the way
5 I would venture into this.

6 And, basically, the third call was the
7 confirmation of the final exhibit.

8 Q. Now, after the first call which you had
9 talked about, you spoke with your attorney?

10 A. Yes.

11 Q. And then the second call was a call
12 with Mr. Holt where he obtained the information
13 from you which ultimately ended up in this
14 affidavit, is that correct?

15 A. Yes.

16 Q. And how long was that? Give me your
17 best recollection of how long that telephone call
18 was.

19 A. Fifteen, twenty -- Maybe twenty
20 minutes. That's the best recollection I have.

21 Q. I'm asking you always just for your
22 best recollection.

23 And was anybody else participating in
24 that phone call other than you and Mr. Holt, to
25 your knowledge?

1 A. No.

2 Q. Was that on the speaker phone?

3 A. No.

4 Q. And then Mr. Holt prepared a draft or a
5 document, correct?

6 A. Affirmative.

7 Q. Affirmative. And he sent that document
8 to you, or to your attorney, or to both?

9 A. I don't know if Attorney Krause got a
10 copy or not at the time. I got a copy.

11 Q. And you read it?

12 A. And I read it.

13 Q. And did you supply a copy to your
14 attorney?

15 A. Yes. Before it was signed and
16 returned.

17 Q. Did you again talk about the document
18 with Mr. Holt before you signed it?

19 A. No, I believe I mailed it back, and
20 then I think we had a final conversation.

21 Q. You signed it, mailed it back, and then
22 had a final conversation?

23 A. Yes.

24 Q. Did you make any changes in what Mr.
25 Holt sent you?

1 A. Not the final draft, no.

2 Q. There was more than one draft?

3 A. I mean the final draft was drawn

4 through the second telephone conversation.

5 Q. You used the word, draft.

6 A. Okay, final document.

7 Q. Was there more than one version of this

8 affidavit or only one version?

9 I'm using the word version -- Do you

10 understand what I mean by version?

11 A. (Indicates yes.)

12 Q. Was there more than one version? Think

13 hard.

14 A. That's a good question.

15 Q. If you can recall, or you don't recall?

16 A. I don't recall.

17 Q. So there might have been more than one

18 version?

19 A. Possibly.

20 Q. Now, when you got the document from Mr.

21 Holt, and you read it, did you have any questions

22 about it?

23 A. No.

24 Q. Was everything -- Did everything he

25 says in there, was that exactly the way you wanted

1 to say it?

2 A. Yes.

3 Q. So you made no changes?

4 A. No.

5 Q. None?

6 A. Not to my knowledge.

7 Q. If you made no changes, why would there
8 have been a need for more than one version?

9 A. I didn't say there was another version.

10 Q. I'm trying to help your memory. You
11 said you couldn't recall. I'm trying to help your
12 recollection. I'm trying to help you.

13 Why would there have been a need for
14 more than one version if you made no changes?

15 A. The possibility would exist, and does
16 exist, that maybe a rough draft was sent to me that
17 I may have made some corrections and sent it back
18 for the final. I don't know.

19 Q. Do you have that rough draft?

20 A. No, sir.

21 Q. How do you know?

22 A. I don't have anything in my possession.

23 Q. That would have been in the documents
24 that you were looking for, is that it, which
25 weren't found?

1 A. No, it would not. That would have been
2 in -- not past history documents. That would be
3 current documents.

4 Had I revised this, why would I have
5 kept the old draft when it wasn't signed by me?

6 Q. So you threw it away?

7 A. I would have, yes.

8 Q. Do you recall throwing it away?

9 A. No.

10 Q. Mr. Shook, my colleague, says that he
11 thinks that he has seen your attorney have a
12 document which may have been a draft. Do you have
13 any knowledge of that?

14 A. No.

15 Q. So you don't know whether your attorney
16 has a version -- I'm using the word, version, an
17 earlier version of this affidavit?

18 A. I do not know if he does or not.

19 Q. He may or may not?

20 A. He may or may not.

21 Q. Did your attorney and Mr. Holt talk
22 about this affidavit, to your knowledge?

23 A. I referred this to my attorney. I
24 talked to my attorney about the legal aspect of
25 signing this, my noninvolvement, of getting

1 involved, and that was my emphasis to my attorney.

2 The conversation that he had with Mr.
3 Holt, I'm totally unaware of.

4 Q. He never told you he did; he never told
5 you he didn't?

6 A. Did or did not.

7 Q. Have a conversation with Mr. Holt about
8 your affidavit before you signed it?

9 A. He did have a conversation, I'm sure,
10 with him. I referred him. I said that before,
11 that my attorney recommended, after conferring with
12 Mr. Holt on the phone, that it was in our best
13 interest at this time to provide it and sign it.

14 Q. After Mr. Holt sent you the affidavit,
15 did you supply it before you signed it -- Did you
16 supply a copy to your attorney?

17 A. I would say yes.

18 Q. Did you discuss that document with your
19 attorney?

20 A. Yes.

21 Q. Did he suggest any changes or
22 revisions?

23 A. To my knowledge, no.

24 Q. To your knowledge. You mean you can't
25 recall that he did, or you can't recall that he

1 didn't? What do you mean by to my knowledge?

2 A. As a businessman, sir, I sign papers on
3 a daily basis.

4 I spend five hours a day reading
5 literature, materials, signing letters, dictating.
6 I can't take my mind back and just isolate this in
7 my life.

8 Q. So you don't recall?

9 A. That's a fact.

10 Q. In other words, there -- He may have
11 made changes or he may not have made changes?

12 A. I would say he did not.

13 Q. Is that based on your recollection?

14 A. That's based on my recollection. I
15 would not say with certainty.

16 Q. And can you recall whether your
17 attorney gave you or suggested any other version of
18 the affidavit other than the one that you received
19 from Mr. Holt?

20 A. No.

21 Q. So you can recall no changes that your
22 attorney suggested to you should be made in the
23 document that Mr. Holt sent you? That's your
24 testimony, correct?

25 A. Yes.

1 Q. And you can recall no changes that you
2 made?
3 A. That's correct.
4 Q. So the document that Mr. Holt sent to
5 you was accurate?
6 A. Yes.
7 Q. And it was what you wanted to say?
8 A. Yes.
9 Q. And you were satisfied with it?
10 A. Yes.
11 Q. And that's why you signed it?
12 A. Yes.
13 Q. Now, Mr. Holt; you never met Mr. Holt,
14 as I understand it, until this morning, correct?
15 A. Yes.
16 Q. And did you have a conversation with
17 Mr. Holt this morning?
18 A. No. Well, when I walked in the room.
19 Q. You just exchanged pleasantries? Did
20 you meet with Mr. Holt privately this morning?
21 A. No.
22 Q. Did Mr. Holt send you any documents for
23 you to look at?
24 A. Yes.
25 Q. What did he send you?

1 A. He sent me a design of the tower that
2 was submitted to FCC, I believe it was. But,
3 anyway, a design of the tower that is allegedly the
4 tower to be put on top of a roof.

5 And he sent me information about the
6 case in general.

7 Q. What information?

8 A. About the application.

9 Q. What application?

10 A. I believe Raystay, whatever the name of
11 the company is, applied for several extensions and,
12 also, applied with the Lancaster -- a concrete
13 company in Lancaster for the establishment of a
14 tower on top of one of their buildings.

15 Q. What other documents did he send you?

16 A. Just generalized documentation, the
17 case with FCC as it stands today.

18 Q. What does that mean, generalized
19 documentation? I understand your wording, but I
20 don't know what you're saying.

21 A. Basically, where the case stands today
22 up to this point with FCC.

23 Q. What did he tell you as to where the
24 case stands today?

25 A. Well, that Raystay, as I said, has

1 applied for extension permits.

2 Q. He told you that?

3 A. Yes.

4 Q. He told you that Raystay has or had --
5 I didn't quite understand.

6 A. H-A-D applied to extend the life of
7 their permit so that it's still in existence.

8 Q. Yes. Did he tell you when they had
9 applied?

10 A. We didn't get into specifics because I
11 could care less.

12 Q. Let me say for your benefit, because I
13 know you're interested in this since you're here
14 today, and you gave a declaration --

15 A. I'm only here, sir, because of this.
16 (Indicating a document.)

17 Q. You gave an affidavit. That's why
18 you're here. Raystay filed two extension
19 applications, one in December of 1991 and one in
20 July of 1992.

21 Are you aware -- Did Mr. Holt ever tell
22 you that Raystay turned in the construction
23 permits; they were forfeited to the FCC? Did he
24 ever tell you that?

25 A. No, no.

1 Q. They were turned in by Raystay. That's
2 the first you have heard of this; is that right?
3 A. Yes.
4 Q. But had Mr. Holt never told you that?
5 A. No.
6 Q. What else did Mr. Holt tell you about
7 the status of the I case, as you put it?
8 A. Basically, that's it.
9 Q. So he said to you that Raystay had
10 applied for two extensions, or how many extensions?
11 A. He just said extensions, the word,
12 plural.
13 Q. Plural?
14 A. Yes.
15 Q. And did he tell you anything else about
16 the status of the case?
17 A. Not from great detail. I'll state
18 again, I don't want to be involved in this, and I
19 don't want to know what knowledge Mr. Holt has
20 concerning this case, and I don't care about his
21 interest in the case.
22 Q. Well, once you submitted this affidavit
23 you got yourself involved, and that's why you're
24 here this morning.
25 Now, do you have any knowledge of what

1 the proceeding is that is now pending before the
2 Federal Communications Commission that's requiring
3 your testimony here this morning?

4 A. No.

5 Q. Mr. Holt never told you that?

6 A. Again, the conversations were vague
7 because I kept them on that level. I don't want to
8 be on the phone for one hour listening to all the
9 facts involved in this case and the dates involved
10 in this case because I have no interest in this
11 case.

12 Q. Well, you're involved in the case,
13 whether you like it or not, and in all probability
14 you will be a witness in a hearing.

15 Did Mr. Holt talk to you about the fact
16 that you will probably be a witness in Washington,
17 D.C. at a hearing before an administrative law
18 judge?

19 A. No.

20 Q. He didn't tell you that you would
21 probably be traveling to Washington, D.C. in
22 December?

23 A. No.

24 Q. That's the first time you have heard of
25 that?

1 A. Yes.

2 Q. Who typed this affidavit?

3 A. This particular document right here?

4 Q. Yes.

5 A. Mr. Holt's office.

6 Q. And no typing, to your knowledge, was

7 done by your counsel, by your attorney; is that

8 correct?

9 A. To my knowledge, it was not.

10 Q. Now, when you discussed this document

11 with your attorney after Mr. Holt sent it to you --

12 By the way, I'm not sure I recall. Did you supply

13 the document to your attorney, or did Mr. Holt? I

14 forgot which you said.

15 A. Mr. Holt may have sent him one, but I

16 also made a copy immediately and got it to his

17 office.

18 Q. And did you have a conversation with

19 your attorney about the affidavit that Mr. Holt

20 prepared?

21 A. Yes.

22 Q. Was that a person-to-person

23 conversation, or was that a telephone conversation?

24 A. Telephone call.

25 Q. And you talked about the document?

1 A. Yes.

2 Q. And did he have any suggestions to you
3 about the wording in the affidavit?

4 A. No.

5 Q. So he said -- He advised you to go
6 ahead and sign it the way that Mr. Holt had
7 prepared it?

8 A. Yes.

9 Q. And do you know whether your counsel
10 and Mr. Holt, without your presence, outside your
11 presence, discussed the affidavit?

12 A. I do not know.

13 Q. You have never asked your counsel?

14 A. No, I didn't.

15 Q. So as of this minute you don't know?

16 A. No, I don't know.

17 Q. Were you told that this declaration,
18 this affidavit that you signed, was going to be
19 submitted to the Federal Communications Commission?

20 A. I don't recall.

21 Q. It never occurred to you to ask?

22 A. I go back to my statement that my
23 attorney told me: It's in the best interests of
24 myself and the hotel to cooperate at this level, at
25 this time, because we're going to be subpoenaed, to

1 be drawn into this anyway.

2 So why do I care if it will eventually
3 end up in their hands or not?

4 Q. Well, I want to ask you again. Were
5 you told by Mr. Holt that this document was going
6 to be submitted to the Federal Communications
7 Commission?

8 A. I don't recall.

9 Q. Is this the first time you have given
10 any consideration to that point? Has anyone ever
11 brought that to your attention up to this minute,
12 that this document, whether or not this document
13 was to be submitted to the Federal Communications
14 Commission?

15 A. The only concern I had, sir, was to be
16 here, to tell the truth about my involvement.
17 Where the document ends up is immaterial.

18 Q. Are you aware whether or not this
19 document was ever submitted to the Federal
20 Communications Commission?

21 A. I do not know.

22 Q. I want you to look at the document,
23 paragraph eight of the affidavit.

24 A. Page eight.

25 Q. Paragraph eight and page five. And

1 read paragraph eight.

2 A. I understand that this affidavit may be
3 submitted to the FCC, comma, and I have provided it
4 freely and without the payment or offer of any
5 consideration, period.

6 Q. Is that the first time you read that?

7 A. Certainly not. I signed it.

8 Q. So when you signed it, did you read it?

9 A. Yes.

10 Q. So you knew that this affidavit may be
11 submitted to the FCC?

12 A. Obviously, yes.

13 Q. So a moment ago you just didn't recall
14 that, is that correct?

15 A. That's the statement I gave you. Yes,
16 sir.

17 Q. Does this refresh your recollection
18 after reading paragraph eight?

19 A. Yes.

20 Q. So you did know that the document you
21 were submitting may be submitted to the FCC?

22 MR. KRAUSE: I object. This is
23 absolutely out of line. He's answered the
24 question.

25 BY MR. COHEN:

1 Q. Okay. Let me ask you this. Did you
2 receive any compensation of any kind in any form
3 from Mr. Holt or anyone on his behalf for
4 cooperating?

5 A. No.

6 Q. Not a penny?

7 A. Not a penny.

8 Q. No expenses?

9 A. No expenses.

10 Q. No -- Nothing whatsoever, correct?

11 A. That's affirmative.

12 Q. Is the name, Trinity Broadcasting
13 Company, a name that you are familiar with, sir?

14 A. No.

15 Q. You have never heard it until this
16 minute?

17 A. Yes, I have heard it before this
18 minute.

19 Q. Where have you heard that, sir?

20 A. I have read it.

21 Q. Are you aware that Trinity Broadcasting
22 Company is involved in this case?

23 A. Yes.

24 Q. And when did you learn it?

25 A. Months ago.

1 Q. And from whom did you learn it?
2 A. A conversation with Mr. Holt.
3 Q. And what did he tell you?
4 A. I just remember the name, Trinity.
5 That's all I remember.
6 Q. Other than the subpoena fee that you
7 have received for testifying here today, have you
8 received or have you been promised any compensation
9 by anyone for testifying this morning?
10 A. I have received no compensation, and
11 the subpoena fee check is in my briefcase, and I
12 will ask my attorney if it would be prudent to even
13 cash that check.
14 Q. Very well. Now I want to ask you --
15 And I appreciate your patience.
16 And, by the way, if you wish to, at any
17 time, to take any kind of a break, or go to the
18 restroom, or get a cup of coffee and walk around, I
19 would be pleased to accommodate you.
20 A. Fine.
21 Q. I hope you understand that.
22 A. I appreciate it.
23 Q. It's unfortunate. No one likes to
24 testify, but any time you want to take a break,
25 tell me.